

RECEIVED

SEP 10 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
1998 Biennial Regulatory Review --) CS Docket No. 98-132
Streamlining of Cable Television Services)
Part 76 Public File and Notice Requirements)

COMMENTS OF AMERITECH

Ameritech New Media, Inc. ("Ameritech")¹, respectfully submits these comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.²

In the NPRM the Commission has proposed to reorganize the public file and notice requirements pertaining to cable television systems under Part 76 of the Commission's rules to make identification and compliance with these rules easier. In addition, the Commission seeks comment on whether some of its Part 76 recordkeeping and reporting requirements have become unnecessary, deserve consolidation, or can be otherwise improved to facilitate compliance.

Ameritech supports the Commission's goal of streamlining and consolidating Part 76 public file and notice requirements for cable operators. To reduce the cost burden on cable operators, Ameritech urges the Commission to eliminate or modify certain

¹Ameritech New Media, Inc., which is a subsidiary of Ameritech Corp., began operation as a competitive cable operator in May 1996, currently has 80 franchises and is serving customers in 63 communities in the Chicago, Detroit, Cleveland, and Columbus area markets.

²1998 Biennial Regulatory Review – Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, CS Docket. No. 98-132, FCC 98-159 (rel. July 20, 1998) ("NPRM").

public file requirements for technical and other information. In addition, both the public and cable operators would greatly benefit if the Commission were to permit operators to post certain public file records electronically on the Internet.

I. Reorganization of Part 76 Public File, Notice, and Reporting Requirements Will Make the Rules Easier to Use.

As the Commission notes, the current public file, notice and reporting requirements for cable television systems are scattered throughout Part 76. The NPRM identifies nineteen different rule sections in Part 76 pertaining to public file requirements.³ Sixteen rule sections describe documents which cable operators must make available to the public upon request. In addition, there are more than fifty-five rule sections on cable notice requirements, and over twenty-five rule sections describing cable operator annual reports and other filing obligations. It is both confusing and burdensome for an operator to have to refer to widely scattered (and sometimes overlapping) rules in order to ascertain its obligations.

For this reason, Ameritech supports the proposal made by the Cable Telecommunications Association ("CATA") to reorganize the Part 76 public file, reporting and notice requirements. CATA proposes that the Commission create three new subparts in Part 76 to consolidate the bulk of the existing notice, filing, and recordkeeping requirements.⁴ While some rules, such as the notice requirements for inside wiring, will need to remain in their current sections, all pertinent

³ *Id.* at Appendix A.

⁴ *Id.* at Appendix B.

notice, filing, and recordkeeping requirements will at least be referenced in the three new subparts. This reorganization will make it easier for cable operators to identify and comply with the Commission's requirements under Part 76.

II. Elimination or Modification of Certain Part 76 Public File Requirements is Justified.

Ameritech also strongly supports the Commission's efforts in this proceeding to identify and eliminate or modify unnecessary or infrequently used public file recordkeeping requirements.⁵ As a general matter, Ameritech notes that, to its knowledge, it has never received a request to view *any* public file document at the seven public file locations it maintains in the three states in which it operates its cable system.⁶ Nonetheless, Ameritech goes to considerable length and expense to create, duplicate, and update the hard copy records that it is required to maintain in its public files. Ameritech submits that there are several public file requirements under Part 76 that could be either deleted altogether or modified so that the underlying data is available to the public only upon request. In either case, the operator would continue to compile the data, but would be relieved of the burden of creating multiple public inspection copies.

In particular, Ameritech proposes that the Commission consider eliminating certain public file requirements governing the technical operation of cable systems contained in Sections 76.601(c) and (e) of the rules. Section 76.601(c) pertains to proof

⁵ *Id.* at 2. One of the key goals and objectives of the 1998 biennial regulatory review is to eliminate or modify regulations "that are overly burdensome or no longer serve the public interest." General Action, Report No. GN 98-1 (rel. Feb. 5, 1998).

⁶ At present, Ameritech maintains seven separate public inspection file locations in its four Designated Market Areas ("DMAs"): two in the Detroit, Michigan area; one each in the Columbus and Cleveland, Ohio areas; and three in the Chicago, Illinois area.

of performance test data that the cable operator must compile twice annually and make available for inspection by the Commission or the local franchising authority. Section 76.601(e) requires the cable operator to compile signal leakage logs for five years, which, under Section 76.614, the operator must make available to the Commission upon request. In both cases the operator also is required to place these records in its public inspection files pursuant to Section 76.305(a). Ameritech has never had a request from the general public to view these reports. Given the highly technical nature of these reports, the lack of demonstrated public interest in the "raw data" they contain, and the sheer volume of paper required to duplicate them in multiple public files, Ameritech submits that the public file requirement should be eliminated.

For similar reasons, Ameritech proposes that the Commission eliminate the requirement in Section 76.305(a)(1) that cable operators maintain in their public files a record of each test and activation of the Emergency Alert System ("EAS") for three years. Ameritech has implemented an EAS system to alert the public of national, state and local emergencies, as required by the Commission's 1997 EAS Second Report and Order.⁷ Ameritech is currently operating its EAS system in all communities where it offers service and is conducting weekly tests pursuant to the requirements in Part 11 of the Commission's rules. Data from these tests originates and is maintained at the various Video Service Offices within Ameritech's four DMAs. Based on prior experience, it is highly unlikely that the general public will ask to review the raw technical data contained

⁷ *Emergency Alert System Second Report and Order*, FO Docket Nos. 91-171, 91-301, FCC 97-338 (rel. Sept. 29, 1997).

in the EAS reports. Accordingly, Ameritech sees no need to create multiple public file copies of the EAS test and activation data for up to three years.

As is the case with the proof of performance and signal leakage data, the underlying EAS technical data would continue to be available to the Commission or local franchising authority (or to the general public) upon request. In this way, the “paper burden” imposed on cable operators would be greatly reduced, while the Commission and the public would be assured of the system’s continuing compliance with these important Part 76 technical and safety requirements.

Ameritech further supports CATA’s proposal to eliminate the public file requirement in Section 76.225. This section requires cable operators to maintain records verifying compliance with the limits on the amount of commercials aired during children’s programming.⁸ As CATA states, the burden on a cable operator to obtain from each of the cable networks it carries, and maintain in the public file, certified reports of the commercials aired during children’s programming, is quite significant. Given the number of channels carried by cable systems, the cable operators’ burden is considerably more onerous than that imposed on local broadcasters who have only a single channel for which compliance must be shown. Ameritech, which has fully complied with Section 76.225 and which has required cable networks to provide such certifications as part of its programming agreements, has never received a request for records on commercial limits for children’s programming. Therefore, Ameritech supports CATA’s proposal to eliminate the Section 76.225 public file requirement (except for local origination

⁸ CATA Suggested Notice of Proposed Rulemaking (filed March 11, 1998).

channels). Ameritech concurs that, as long as cable networks continue to maintain these records, it is better to make such documentation available to public at the time an allegation is raised, or a request for documentation is made.⁹

III. Electronic Access to Certain Public Files Would Benefit the Public and Reduce Operator Costs.

Finally, Ameritech is pleased to see that the Commission is considering Ameritech's proposal to simplify access to public file information by making such records available electronically over the Internet. As Ameritech has previously suggested to the Commission, it is more cost effective for many cable systems (and consumers) to make information available to the public on the Internet at the cable operator's web site.¹⁰ Internet posting allows cable subscribers from remote locations easily and efficiently to review cable system public files. The Commission recently recognized the pro-consumer benefits of "electronic" public files in its August 1998 Order amending the public file requirements for broadcast television and radio stations. There, the Commission gave broadcasters the option of maintaining all or part of their public file in a computer database rather than in paper files, and encouraged licensees to post their electronic public files on any World Wide Web sites they maintain on the Internet.¹¹ As the Commission noted, public files available over the Internet can be viewed from homes, schools, and libraries with Internet access, thereby greatly increasing the number of sites

⁹ In any event, the public can easily verify compliance with the commercial limits by taping any children's program on the operator's system.

¹⁰ Letter from Christopher M. Heimann, Counsel for Ameritech New Media, March 27, 1998.

¹¹ *Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations, Report and Order*, MM Docket No. 97-138, FCC 98-175, at par. 21 (rel. Aug. 11, 1998) ("Broadcast Order").

where such files can be viewed.¹² Thus, the concern raised in this NPRM regarding a “lack of access to computer services” does not appear to be a significant problem.¹³

Ameritech submits that a number of the Part 76 cable public file requirements could be made available more effectively to the public in an electronic format on an Internet web site. These requirements pertain to: Equal Employment Opportunity (“EEO”) records (Sections 76.305(a), 76.79(a) and (b)); must-carry reporting obligations, including changes in principal headends (Sections 76.302(b)) and lists of must-carry signals (Sections 76.56(e), 76.302(a)); and channels delivered to the subscribers (76.601(b)). Such records are more likely to be of interest to the viewing public, local franchising authorities, and to broadcast stations in the operator’s region, than the technical files discussed above. In addition, in contrast to the 76.225 records for commercial limits in children’s programming, records on EEO, must-carry and channels delivered to the viewing public, are compiled by the cable operator from data under its direct control. Accordingly, Ameritech requests that the Commission give cable operators the option, in lieu of maintaining “hard copy” public files, of posting these, enumerated public inspection records in electronic format on the company’s web site.

IV. Conclusion

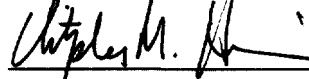
For the reasons set forth above, Ameritech supports the adoption of rules, consistent with these Comments, to consolidate, eliminate or otherwise modify the public

¹² *Id.*

¹³ *NPRM*, FCC 98-159, at 3. Ameritech is willing to provide subscribers with a list of convenient locations, such as public libraries, local colleges, and other sites, where computers with Internet access are available to the general public.

file, notice and reporting requirements under Part 76, and to grant cable operators the option of posting some of its public files on the Internet.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher M. Heimann", is written over a horizontal line.

Christopher M. Heimann
Counsel for Ameritech
Suite 1020
1401 H Street, N.W.
Washington, D.C. 20005
(202) 326-3818

September 10, 1998